IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 30TH MAY 2007 / 9TH JYAISHTA 1929

MFA.No. 709 of 2002()

OPMV.399/1999 of MOTOR ACCIDENT CLAIMS TRIBUNAL, TRIVANDRUM
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APPELLANT: APPLICANT:

SUBIER MOHAMMED SAHIB,
S/O.MOHAMMED KUNJU, RESIDING AT AISHA COTTAGE,
KARAKKAMANGAPAM, PAPPANAMCODE, NEMOM P.O.,
THIRUVANANTHAPURAM.

BY ADV. SRI.R.BINDU (SASTHAMANGALAM)
SRI.PRASANTH M.P

RESPONDENTS: RESPONDENTS:
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1. **HAREENDRAN, S/O.KARUNAKARAN,**
PATTAVILAKATHU VEEDU, THALAYAL, BALARAMAPURAM,
THIRUVANANTHAPURAM.

2. **THE DIVISIONAL MANAGER,**
UNITED INDIA INSURANCE COMPANY LTD.,BRANCH OFFICE,
HOSPITAL JUNCTION,NEYYATTINKARA,THIRUVANANTHAPURAM

BY ADV. SRI.J.S.AJITHKUMAR - R1
SRI.M.S.PATTALI)
SRI.T.VINOD KUMAR) - R2

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 30/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. KOSHY and K.P.BALACHANDRAN, JJ.

M.F.A. No.709 of 2002

Dated this the 30th day of May, 2007

Judgment

Koshy, J.

Appellant sustained injuries while he was riding his scooter. Another scooter hit the same. Police referred the matter as a pure accident as can be seen from Ext.A4 refer report. The tribunal awarded compensation of Rs.1,10,900/-, but, awarded only 50% as the accident occurred not due to the negligence of the driver of the vehicle insured by the second respondent. There is no dispute regarding the quantum of compensation assessed.

2. We have perused the records. It is seen that negligence of the driver of the alleged offending scooter was not proved and it was a pure accident. In the above circumstances, we are of the view that the award of the tribunal is not required to be interfered at the instance of the claimant. Appeal dismissed.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

vaa

J.B. KOSHY AND
K.P.BALACHANDRAN, JJ.

M.F.A. NO.709/2002

JUDGMENT

Dated:30th May, 2007